

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

I/P ENGINE, INC.,)
v. Plaintiff,) Civil Action No. 2:11-cv-512
AOL, INC. et al.,)
Defendants.)

)

**MEMORANDUM IN SUPPORT OF I/P ENGINE, INC.'S MOTION FOR LEAVE
TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY**

Plaintiff I/P Engine, Inc. (“I/P Engine”), by counsel, for its Memorandum in Support of its Motion for Leave to File Notice of Supplemental Authority, states as follows:

ARGUMENT

Good cause exists for the Court to grant I/P Engine leave to file the Notice of Supplemental Authority. The Notice identifies new authority that is directly related to the Court’s determination of Defendants’ Renewed JMOL on Damages (D.I. 833).

On February 26, 2013, after the close of briefing on Defendants’ Renewed JMOL on Damages, the United States District Court for the Eastern District of Texas issued an opinion in *VirnetX Inc. v. Cisco Systems, Inc.*, No. 6:10-cv-417, D.I. 732 (E.D. Tex. Feb. 26, 2013). In *VirnetX*, the Court denied a defendant’s JMOL on damages where the defendant, like the defendants here, argued that the plaintiff failed to present sufficient evidence of a royalty base.

See Opinion, pp. 23-25. As in this case, the defendant in *VirnetX* “failed to advance a credible alternative” at trial. *Id.* at 25.

For the foregoing reasons, I/P Engine respectfully requests that the Court grant it leave to file *Plaintiff I/P Engine, Inc.’s Notice of Supplemental Authority*.

Dated: March 1, 2013

I/P ENGINE, INC.

By: _____ /s/ W. Ryan Snow
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CERTIFICATE OF SERVICE

I certify that on this 1st day of March 2013 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification to the following:

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